

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,

Case No. 16-cr-20593

Plaintiff,
vs.

Hon. Gershwin A. Drain

EDITHA MANZANO,

Defendant.

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SUPPLEMENT TO EMERGENCY MOTION FOR
COMPASSIONATE RELEASE

Defendant Editha Manzano (Manzano”), through counsel, KIMBERLY W. STOUT, provides this Court with supplemental information following the hearing on her Motion for an Order reducing her sentence and releasing her from prison under the compassionate release provisions of 18 U.S.C. § 3582, as modified by the First Step Act.

First, it has come to undersigned counsel’s attention that Immigration and Customs Enforcement (ICE) has learned of this Motion and placed a detainer on Ms. Manzano. Ms. Manzano is from the Philippines and is in the U.S. on a green card.

This fact should play no role in this Honorable Court's decision. Whether ICE chooses to pick up Ms. Manzano or place her in house arrest is a decision it will make. Further, petitions can also be filed in court for release from the hold of ICE based upon compassion.

Further, this Court should consider strongly the age and medical conditions of Ms. Manzano as well as the high incidence of COVID-19 at Danbury, FCI. The CDC lists those that are 65 years and older as at high-risk for severe illness. "The greatest risk of infection is among those who are in close contact with people who have COVID-19. This includes family members and health care workers who care for people who are infected. If you're 65 and older and live where cases have been reported, take action to reduce your exposure." <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>.

For compassionate release, the Sentencing Commission has fulfilled Congress's directive in its policy statement in USSG § 1B1.13. That policy statement limits "extraordinary and compelling reasons" to four categories: (1) the inmate's medical condition; (2) the inmate's age; (3) the inmate's family circumstances; and (4) other reasons "[a]s determined by the Director of the Bureau of Prisons." USSG § 1B1.13 cmt. n.1. At *11-12. The first and second of those reasons apply to this Defendant. This Court is permitted to consider the age of the defendant if the

defendant is over 65 years old, is experiencing deterioration in physical or mental health because of the aging process, and has served at least 10 years or 75 percent of his term of imprisonment, whichever is less. USSG §1B1.13 cmt. n.1(B). In *United States v. Al-Jumail*, No. 12-20272, 2020 U.S. Dist. LEXIS 83120, at *17 (E.D. Mich. May 12, 2020), the Court found stated that according to the United States Center for Disease Control, persons over the age of 65 and individuals of any age who have serious underlying medical conditions, including serious heart conditions and *diabetes*, are at higher risk for severe illness from COVID-19. (*emphasis added*).

In *United States v Walls*, the United States District Court, Eastern District of Michigan, stated that the defendant is 78 years old and served over 25 years in prison. The *Walls* Defendant suffers from several serious health conditions, including Parkinson's, cardiovascular issues, and loss of ambulatory functions. Based on the cumulative effect of these conditions, and the passage of three years since BOP initially filed its motion for compassionate release, the Court stated that there are sufficient grounds to find that the defendant has satisfied the "extraordinary and compelling reasons" requirement in § 3582(c)(1)(A)(i) and USSG § 1B1.13(1)(A) & cmt. n.1. *United States v. Walls*, No. 92-CR-80236, 2020 U.S. Dist. LEXIS 70580, at *11-12 (E.D. Mich. Apr. 22, 2020) at *12.

Furthermore, as to Ms. Manzano's diabetes, people with diabetes are not more likely to get COVID-19 than the general population. The problem people with

diabetes face is primarily a problem of worse outcomes, not greater chance of contracting the virus. In China, where most cases have occurred so far, people with diabetes had much higher rates of serious complications and death than people without diabetes. <https://www.diabetes.org/coronavirus-covid-19/how-coronavirus-impacts-people-with-diabetes>. Nearly 1 in 4 hospitalized COVID-19 patients in Utah has diabetes, data shows. <https://www.deseret.com/utah/2020/5/10/21253761/covid19-coronavirus-deaths-recoveries-salt-lake-county-half-recovered-preexisting>.

However, if you have high blood pressure or obesity (often associated with type 2 diabetes), you might manifest more debilitating symptoms. When diabetes isn't well managed, as in a prison environment, one can have high blood sugar, which suppresses immune system function. When the immune system isn't performing as well, it has a harder time fighting off infections, and viral symptoms can be worse. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>.

In *United States v. Colvin*, No. 3:19cr179 (JBA), 2020 U.S. Dist. LEXIS 57962, at *9 (D. Conn. Apr. 2, 2020), the Court found the Defendant had diabetes and a "serious . . . medical condition," which substantially increases her risk of severe illness if she contracts COVID-19. See *United States v. Rodriguez*, No. 2:03-cr-271, 2020 U.S. Dist. LEXIS 58718, Doc. # 135 at 2 (E.D.P.A. Apr. 1,

2020) (granting compassionate release because for a diabetic inmate, "nothing could be more extraordinary and compelling than this pandemic"). The CDC Guidance confirms Defendant's position, stating plainly that "[p]ersons with diabetes" face a "higher risk for severe illness" if they contract COVID-19. Moreover, [*9] the Bureau of Prisons itself has acknowledged that home confinement may be appropriate for certain "at-risk inmates" in order "to protect the health and safety of . . . people in our custody." At *8-9.

In United States v. Young, No. 2:18-CR-21-2-TLS-APR, 2020 U.S. Dist. LEXIS 76573, at *13 (N.D. Ind. Apr. 30, 2020), the Court wrote that according to the American Diabetes Association, "[p]eople with diabetes do face a higher chance of experiencing serious complications from COVID-19." *How COVID-19 Impacts People with Diabetes*, American Diabetes Association, <https://www.diabetes.org/coronavirus-covid-19/how-coronavirus-impacts-people-with-diabetes> (last visited Apr. 29, 2020). Due to his diabetes, the Defendant is an "at-risk person," and the Court takes the potential risk to Defendant Young very seriously. *See also United States v. Pabon*, No. 17-165-1, 2020 U.S. Dist. LEXIS 78245, at *3 (E.D. Pa. May 4, 2020) ("People with diabetes, high blood pressure or severe obesity are more likely to experience dangerous symptoms if infected with COVID-19." This is particularly unfortunate for Mr. Pabon because he suffers from both diabetes and high blood pressure. According to a CDC report, "nearly

90% of adult patients hospitalized with COVID-19 in the US had one or more underlying diseases," and out of those patients 49.7% of them had hypertension and 28.3% of them had diabetes.)

Combine diabetes with hypertension and the risk is greater. *See Preliminary Estimates of the Prevalence of Selected Underlying Health Conditions Among Patients with Coronavirus Disease 2019 — United States, February 12–March 28, 2020*, <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6913e2-H.pdf>. (“These results are consistent with findings from China and Italy, which suggest that patients with underlying health conditions and risk factors, including, but not limited to, diabetes mellitus, hypertension, COPD, coronary artery disease, cerebrovascular disease, chronic renal disease, and smoking, might be at higher risk for severe disease or death from COVID-19.”)

Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html>, states that “[h]eart disease, hypertension, prior stroke, diabetes, chronic lung disease, and chronic kidney disease have all been associated with increased illness severity and adverse outcomes.” Further, individuals who contracted COVID-19 and also suffered from hypertension had a mortality rate of

6%, compared to the 0.9% fatality rate for persons with no known underlying health issues.

Many courts have cited the *Interim Clinical Guidance* in concluding that hypertension poses an increased risk for severe COVID. In *United States v. Pinkley*, No. 05-cr-30104, 2020 U.S. Dist. LEXIS 79276, at *7 (C.D. Ill. May 5, 2020), the Court stated that the Defendant suffers from hypertension, a condition that increases the serious risks that COVID-19 presents for Defendant.” In *Bent v. Barr*, No. 19-cv-06123-DMR, 2020 U.S. Dist. LEXIS 62792, at *21 (N.D. Cal. Apr. 9, 2020) the Court stated that “[t]he CDC has advised that people with hypertension, diabetes, and moderate to severe asthma are at increased risk for severe illness from COVID-19.” *See also United States v. Scparta*, No. 18-cr-578 (AJN), 2020 U.S. Dist. LEXIS 68935, at *29 (S.D.N.Y. Apr. 19, 2020) (“The Centers for Disease Control has identified hypertension as a comorbidity that increases the likelihood of serious risk from COVID-19.”); *United States v. Lacy*, No. 15-CR-30038, 2020 WL 2093363, at *6 (C.D. Ill. May 1, 2020) (“Besides obesity, Defendant suffers from hypertension and diabetes, both of which he manages with medication. Any one of these three factors alone would increase the serious risks of COVID-19 for Defendant”).

WHEREFORE, Manzano requests that this Honorable Court grant her motion for compassionate release.

Respectfully Submitted,

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Dated: May 15, 2020